

European Migration Network (EMN)

EMN Conference 2014

Irregular Migration and Return: Challenges and Practices

June 12-13 2014, Athens, Greece

Conclusions and Summary



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Conclusions of the EMN Conference 2014

Framework for the EMN Conference 2014

Irregular migration continues to pose challenges to EU Member States, as set out most recently in the European Commission's Communication on the work of the Task Force Mediterranean presented in December 2013. In March 2014, the European Commission outlined in its Communication on EU Return Policy that in order to face the challenge of irregular migration, a holistic approach is needed which would include actions such as an efficient border management and strengthening the fight against smuggling and trafficking of human beings. Therefore, the return of those third-country nationals who have no legal grounds to stay in the EU or need to be granted protection is essential to the credibility of the EU legal migration and asylum policies. Return policy is interlinked with readmission policy, and both form an integral part of the Global Approach to Migration and Mobility which is, in its turn, the overarching framework for the external asylum and migration policy. The external dimension of return policy is a key aspect in addressing issues such as voluntary departure and reintegration of returnees in countries of origin as well as identification and documentation of returnees.

Within this framework, the EMN Conference 2014 aimed to present a forum to debate these important issues, to raise awareness about the work of the EMN and its sub-group, the Return and Reintegration Experts' Group (REG) on this important topic, and to share the preliminary findings from two highly topical EMN 2014 Studies:

- ★ The use of detention and alternatives to detention in the context of immigration policies; and
- ★ Good practices in the return and reintegration of irregular migrants: Member States' entry bans policy and use of readmission agreements between Member States and third countries

The main issues emerging from the EMN Conference were:

Issue 1: How can operational cooperation between Member States on return be improved?

EU cooperation at operational level remains a key element in implementing effective return. Such cooperation takes place at various levels: between the EU Agencies and the Member States, and amongst the Member States, both collectively and bilaterally. Considerable progress has been made to date to coordinate return measures by the EU Agencies, in particular Frontex, in relation to its coordination of joint activities with Member States, and the European Asylum Support Agency also plays a role in supporting Member States to inform (failed) asylum seekers about all the programs for voluntary return. Member States have benefitted from information sharing, through mechanisms such as the Schengen Information System (SIS), which have assisted in the operational implementation of entry ban policy. Operational cooperation is also taking place through exchanges with other Member States via a range of shared and bilateral channels, in response to their specific migration pressures, and national experiences policies to tackle irregular migration.

Whilst successes are highlighted, challenges remain, in particular in relation to the difficulties in the practical implementation of EU level systems. This was illustrated in relation to how information is shared on EU entry bans and how fixed term entry-bans are monitored and lifted, which highlighted some of the work that still needs to be done to ensure these systems work consistently for all Member States.

Issue 2: How can the external dimension to cooperation improve the effectiveness of return?

As well as cooperation within the EU, return is most effective when conducted in close cooperation with third countries. Success factors highlighted through the Conference included developing cooperation in all levels: at the political / diplomatic level; at the operational level; and at the level of day to day support. The widening of agreements away from the issues of readmission alone to include a broader range of incentives that address holistically identified needs in countries of origin and transit was also noted as a key factor in the increasing success of EU Readmission Agreements over time.

The Conference also highlighted a further role for the EU External Action Service to play in facilitating negotiations of EURAs to better meet the specific interests of third countries, as well as Member States, in providing incentives on a bilateral basis.

In terms of the negotiation and conclusion of EU Readmission Agreements and Mobility Partnerships, the need for further work to ensure that all parties fully understood their potential in relation to return was also highlighted.

Issue 3: What incentives for return and reintegration are in place?

A key challenge for Member States is to improve return rates. The Conference explored a number of incentives available to irregular migrants to encourage (voluntary) return, at pre departure, departure and readmission stages. These incentives, including assisted voluntary return and reintegration (AVVR) schemes, have evolved over time from basic transport assistance to comprehensive packages and programmes of support aimed at facilitating sustainable, long-term settlement of returnees into their countries of origin. In terms of good practices, AVVR packages based on the principles of sustainability, measurability, balance, complementarity and innovation have developed based on experience learned over time and return rates have increased accordingly. NGOs can and do play a crucial role in building trust and working with returnees, both in the delivery of pre-departure services as well as through effective cooperation with local partners in third countries, for ensuring the best outcome for the returnee and for the EU.

However, there are considerable variations across Member States in the levels of AVVR packages available, what they contain and how closely they are tailored to an individual's needs, raising concerns that this can result in AVVR Shopping' by returnees. The EMN REG is exploring these variations and gathering information which will help Member States to understand better the situation across the EU which could be used to inform their future policies at the national level.

Other tools available to Member States that can act as incentives to return include the **use of entry-bans**. The majority of Member States do impose entry bans, and these can be withdrawn and/or suspended where an individual can prove that he/she has voluntarily returned to the country of origin. EU and

national bilateral **Readmission Agreements** can and are being used to encourage the implementation of voluntary as well as forced return.

However, the operational effectiveness of these tools could be improved. For entry bans, challenges included ensuring cooperation amongst Member States in their implementation, enforcing/monitoring compliance; and monitoring the timeframe during which fixed term entry bans are lifted. For Readmission Agreements, obstacles to effective implementation primarily appear to relate to identification issues, obtaining the necessary documentation, failures to respect deadlines and protracted procedures. In many cases, such obstacles were identified in relation to individual cases rather than more generally applied.

Issue 4: Alternatives to detention: how are risks and fundamental rights balanced?

The Return Directive provides that third country nationals in return proceedings should be kept in detention for as short a time as possible, and the EU seeks to move towards wider implementation of alternatives to detention. Almost all Member States do now offer alternatives to detention, such as reporting obligations, the requirement to reside at a particular address, release on bail, and routinely undertake vulnerability assessments for individuals prior to imposing a detention decision. However, in practice, in many Member States, the numbers of detained migrants exceed those in alternative measures, and indeed in some cases, public opinion at local level has tended to resist such alternatives.

Various approaches were examined to understand better how to balance the risks of absconding with respect for the fundamental rights of migrants, including a re-examination of the relationship between voluntary return practices and alternatives to detention to reduce concerns that a migrant might jeopardise his or her removal by taking up alternatives to detention; models for decision-making to grant alternatives that primarily favour a person's liberty; the embedding of fundamental rights in national legislative frameworks on detention and alternatives to detention, where alternatives to detention are considered first with detention applied only as a last resort; and the routine provision of alternatives to detention for irregularly-staying families with minor children to protect the rights of the child.

Main conclusions

The following main conclusions were highlighted:

- ★ Combating irregular migration remains a key policy priority for the EU and the Member States, and within this framework, EU Return policy remains high on the Home Affairs agenda and on the agenda of the Member States.
- ★ Although Member States continue to face a number challenges, cooperation and exchange of information through EU, regional and bilateral platforms, notably with the assistance of Frontex and EASO, is increasingly facilitating the dissemination of best practices at operational level.
- ★ Whilst progress has been made at EU and national levels in putting in place EU and bilateral Readmission Agreements, challenges exist when putting such written agreements into practice. Agreements alone cannot ensure that those who do not or no longer have a right to remain in a Member States can be safely and fairly returned to their countries of

origin. Positive results rely on appropriate efforts at all levels: diplomatic, operational, and in capacity building in third-countries.

- ★ Whilst progress has been achieved in the return of third country nationals, the gap that exists between those irregular migrants who have no right to remain in the EU and those irregular migrants returned, remains significant, leaving migrants without a clear legal status. This issue is best addressed through more effective implementation of the various incentives, tools and measures in place, through better cooperation with third countries, and through understanding and sharing of good practices.
- ★ There is a growing body of good practice developing within Member States in terms of balancing the risks and fundamental rights of irregular migrants, and evidence of a more systematic use of alternatives to detention, respecting also the specific rights of children.
- ★ An effective return policy is an essential part of a well-managed migration policy, for it to remain credible to EU citizens and to potential irregular migrants. Return must be effectively and fairly implemented, if the pull factor of irregular migration is to be minimised, fully respecting fundamental rights and the dignity of those concerned.
- ★ Measures to better address migratory and asylum flows, and prevent migrants' deaths in the Mediterranean remain a priority for all.

Next steps: the role of the EMN

The Conclusions of the Justice and Home Affairs Council meeting on EU Return Policy of 5th and 6th June 2014 underlined the role that the EMN can play, and specifically the role that the EMN Return Experts' Group (REG) will play in supporting the Member States in the practical implementation of Return Policy, working closely in cooperation with the EU and its Agencies plus international organisations such as UNHCR, IOM, Caritas, and with NGOs such as the Jesuit Refugee Service.

This cooperation will aim to provide practical support in addressing known challenges and finding practical solutions. It will also aim to identify further challenges that are preventing effective implementation of return policies and to identify and share good practices, and to help Member States to overcome the specific needs and the particular migration challenges they face.

Already the REG has collected and analysed practices in relation to returns to Afghanistan and to Pakistan, and a briefing paper on this is being developed for later in 2014. The next priority to be addressed will be to identify effective practices in relation to practical support in returns to the countries of West Africa, also in response to the identified needs of Member States.

A dignified and effective return policy, within the framework of fundamental rights, is a crucial part of a well-managed, effective and credible migration policy. For this to work at EU level, it must be implemented effectively in all Member States, and this can only be achieved through the effective cooperation of Member States, the EU and its Agencies, international organisations and of course third countries. The EMN REG is currently bringing together all of these actors in one forum, and expectations are high that an increasing role will develop for this network in the practical implementation of Return and Readmission policies across the EU.

Annex 1: Summary of the EMN Conference 2014

Introduction

The European Migration Network Conference 2014 on *Irregular migration and return: challenges and practices* was organised by the National Contact Point for Greece, within the framework of the Hellenic Presidency of the EU Council. The aim of the Conference was to

The aims of the EMN Conference 2014 were to highlight and further develop synergies in the work of EU and National institutions and agencies relevant to the theme, and to further raise awareness about the work of the EMN and its sub-group, the Return and Reintegration Experts' Group (REG) on this important topic, and in particular, on two of its upcoming Studies, whose early findings were presented:

- ★ The use of detention and alternatives to detention in the context of immigration policies; and
- ★ Good practices in the return and reintegration of irregular migrants: Member States' entry bans policy and use of readmission agreements between Member States and third countries

Following the official opening of the Conference, four Panel discussions were held, covering the topics of effective cooperation for return which focused on cooperation (I) within the EU and (II) with third parties; incentives for return and reintegration (III), and detention and alternatives to detention (IV).

Opening remarks



Dr Angelos SYRIGOS, Secretary General of Population and Social Cohesion, Ministry of Interior, Hellenic Republic highlighted Return programmes as a key tool to address irregularity that to be effective and sustainable must be connected with reintegration policies. The speaker reiterated the aims of the Conference, and welcomed the opportunity provided by the EMN as a platform to contribute to policy both through the Conference and the two relevant Studies which would be published later in the year.

Mr Patroclus GEORGIADIS Secretary General of the Ministry of Public Order and Civil Protection, Hellenic Republic highlighted the importance of cooperation when facing migratory challenges while respecting Fundamental Rights, including cooperation with the EU agencies; cooperation with third countries; addressing security issues and delivering on the Common European Asylum Policy, as well as the application of modern technologies to support the Member States in their actions. Considerable progress had been made in migration and border management across the EU, and in Greece; however, there remained a strong need to demonstrate solidarity with front line countries and to improve cooperation with third countries in general. The speaker thanked all those who had contributed to the Hellenic Presidency and its efforts to further create a Europe of freedom and security for all.

Mr Matthias REUTE, Director General, DG Home Affairs, EU Commission, stressed the reality of the challenges faced by the EU as a whole, and to the countries positioned on its southern borders, including Greece, in particular, in managing the impacts of on-going political unrest in the Southern and Eastern Mediterranean areas, which was resulting in increasing trends in irregular migration flows and in those seeking asylum. The main responses by the EU to the current pressures were set out, including the setting up of the Task Force Mediterranean following the Lampedusa tragedy in October

2013, the March 2014 Communication on "An Open and Secure Europe: Making it Happen", setting out a comprehensive EU strategy towards immigration with the prevention of irregular migration, and the recent specific Communication on Return (28th March 2014). For the future, three main priorities were highlighted: making sure that the Return Directive is effectively implemented; developing further cooperation with third countries; and reinforcing operational cooperation. Finally the contributions of the EMN, its sub-group the EMN Return and Reintegration Experts Group, and the timely EMN Conference kindly hosted by the Greek EMN NCP, were also highlighted for their roles in providing a valuable contribution to the future development of the EU Return Policy.



Ambassador Laura THOMPSON, Deputy Director General of the International Organization for Migration, emphasised the heterogeneity of irregular migrant groups, and in many cases their vulnerability, highlighted also the tragic events of Lampedusa in 2013, reiterated the challenges this brings for receiving States, and the importance of maintaining human rights standards. IOM has joined with the EU and the UN to call for a comprehensive approach to protect lives put at risk through migration, which includes also aspects of Return and ensures that the wellbeing of migrants takes priority. The need to strike a balance between reducing irregular migration and contributing to legal migration channels was stressed, and the speaker reported that IOM had developed an approach to enhance policy dialogue amongst Member States to improve preparedness and to address the needs of migrants according to their status. Avenues for safe and legal channels of migration needed also to be opened. The role of NGOs was also highlighted, and the importance of effective reintegration measures for sustainable return. Overall, the speaker stressed that a shift in public and policy debate was required to accept migration as an issue to be managed rather than a problem to be solved. However the future would present challenges, and the speaker called upon creativity and commitment from all to the effective implementation of policies to tackle irregular migration, to ensure rights and to save lives.

Panel I. EU cooperation for effective return: challenges and practices in cooperation measures

Panel I aimed to examine challenges and practices in cooperation for effective return, including examples of effective measures in the fields of return and (re)-entry bans. It was chaired by **Mr Menelaos KOSTARIS**, Director of Division of Illegal Immigration Enforcement, Hellenic Ministry of Public Order and Civil Protection.

In his presentation, **Mr Klaus ROESLER**, Director of Operations Division of Frontex, outlined the measures under the mandate of Frontex to assist Member States in effective return processes. Cooperation with Member States has resulted in trust-building, improved effectiveness, enhanced cooperation with third countries as well as capacity-sharing in return operations. Emphasis was placed on ensuring effective implementation and consolidation of existing rules on return as well as a comprehensive approach towards third-countries as key success factors in sustainable return. Cooperation was identified as an essential factor in helping to establish the identity of third-country nationals and obtaining necessary documents for return. In conclusion, effective return was highlighted as a crucial element of sound migration management and in the fight against facilitated illegal migration, and cooperation at all levels a key factor for successful control of irregular migration risks.

Mr Claus FOLDEN, Head of Centre for Operational Support, European Asylum Support Office (EASO), emphasized the role of the Common European Asylum System (CEAS) as a legal and practical framework that seeks to establish similar outcomes in the asylum processes among EU Member States, for tackling return challenges with

regard to rejected asylum seekers. A number of practical measures initiated by EASO were currently being implemented, including an early monitoring system of the return of rejected asylum seekers as well as training modules on return. A further aspect of practical importance highlighted was the provision of Country of Origin Information (COI) by EASO which is used to inform the process of return measures.

Three national perspectives on the implementation of entry-bans and their contribution to effective return were provided by representatives from EMN NCPs in Ireland (**Ms Egle GUSCIUTE**), Latvia (**Ms Anzelika ALIKA**) and the Netherlands (**Ms Linda GOLDSCHMEDING**).

The presentations highlighted the practical application of entry bans on a case- by-case basis, the importance of individual assessments undertaken prior to the imposition of an entry ban, and the exclusion of victims and vulnerable groups from the process. All perspectives highlighted the importance of cooperation with other EU Member States; in Ireland, through the Common Travel Area with the UK, and in Latvia and the Netherlands more widely, including through the sharing of information in the Schengen Information System (SIS), as well as active exchanges with other Member States through range of shared and bilateral channels. Challenges highlighted, included the need to improve collection and sharing of visa data, managing the administrative burden, enforcing leave from the EU and monitoring the timeframe of an entry-ban imposed in individual cases.

Following the presentations, discussions focused on the challenges in the return process, including those related to operating charter return flights and transporting returnees with dignity to the countries of origin; dealing with certain third countries not willing to cooperate; monitoring validity of entry bans and data protection issues related to storing and deleting expired entry bans from national databases and systems. The Panel concluded that although Member States continue to face a number of challenges, cooperation and exchange of information through different EU, regional and bilateral platforms, and notably with the assistance of Frontex and EASO, is increasingly facilitating the dissemination of best practices at operational level.



Panel II. EU cooperation for effective return: the external dimension – readmission and cooperation with countries of transit and origin

The aim of the second panel was to discuss the instruments available in the EU's external relations' policy for ensuring effective returns and cooperation with third countries. The panel was opened by the chair, **Ms. Elizabeth COLLETT**, from the Migration Policy Institute, who set the scene by emphasising that EU relations with transit and sending countries were a decisive factor for the success of EU return policy, based on mutual interests, capable of fostering a long-term relationship.

- ★ A perspective from the Legal Service within the Ministry of Foreign Affairs of the Hellenic Republic (**Dr George KARIPSIANES**) highlighted the current institutional framework in Greece for cooperation with countries of origin and transit with regard to return, including some of the tools developed to date: Readmission Agreements, Mobility Partnerships, the Common Agenda on Migration and Mobility, the Migration Dialogue (bilateral as well as regional). The instruments set out in the EU's Global Approach to Migration and Mobility (GAMM) were highlighted as important building blocks for the potential negotiation and conclusion of EU Readmission Agreements.
- ★ The European Commission (**Mr. Pawel BUSIAKIEWICZ**) presented an overview of the developments in EU Readmission policy, highlighting a shift over time in the negotiations and conclusions of Readmission Agreements from an initial focus on the readmission/return of third-country nationals to a more holistic approach focusing also on the needs of countries of origin and transit

in the context of the GAMM. The 2011 Evaluation of EU Readmission Agreements had indicated several implementation challenges: including limited leverage/incentives in EU negotiation processes, limited data availability, as well as a need for more flexibility on the content of agreements to enable the specific concerns of third countries to be addressed. For the future, parallel development of EU Readmission Agreements and the GAMM/Mobility Partnerships was anticipated, as well as the inclusion of migration clauses and visa facilitation arrangements in future cooperation agreements. Overall, the importance of securing third countries' cooperation over time on return and readmission was seen as key, and could be achieved by offering a broad spectrum of incentives including from wider policy areas. Ensuring appropriate human rights provisions in the context of EURAs was also highlighted.

- ★ Two perspectives on cooperation with third countries for effective return were presented. **Mr Stavros TSIEPAS**, Ministry of Foreign Affairs of the Hellenic Republic highlighted the different experiences of the Greek authorities concerning the implementation of EURAs with Turkey and with Pakistan. By comparing the legal provisions of the EURAs with the two countries, the arrangement with Turkey offered more incentives, and this impacted on the success of its implementation, with significantly higher success rates registered in readmission applications when compared with Pakistan where the EURA had limited effectiveness. It was concluded that the extent to which authorities in third countries cooperate does depend significantly on the package the EU offers (in addition to other factors such as political will and the capacity of the third country to cooperate). The need to link EURAs to wider policy areas, thereby providing a broader range of incentives, was also underlined.
- ★ By contrast, **Ms Ophelia ELLIOTT** from the UK Home Office presented a positive perspective on cooperation on readmission with Pakistan. Key success factors had included the long historical ties between the two countries, similarities in administrative systems, as well as intensive cooperation at the political, operational and support levels, including regular follow up on individual cases, practical measures in place such as regular charter flights plus appropriate reintegration packages, plus training and capacity building measures. The importance of building trust and understanding between the countries, providing incentives and maintaining close cooperation were highlighted as key success factors. The speaker stressed also the role of various EU networks, including the European Reintegration Instrument Network (ERIN) plus the EU Return Fund, which had supported capacity building activities.

Discussions following the presentations focused on how the negotiation and implementation of EU Readmission Agreements could be improved. The Panel concluded that better incentives for third countries needed to be explored, including the role that the EU External Action Service could play in facilitating negotiations of EURAs to better meet the specific interests of third countries, as well as Member States in providing incentives on a bilateral basis. With regard to the negotiation and conclusion of Readmission Agreements and Mobility Partnerships, it was emphasised that third countries needed to be better informed about the documents and their contents as there were often misconceptions.

Panel III. Incentives for return and reintegration

The aim of this panel was to discuss different practices for providing incentives for return and reintegration. It was chaired by **Dr. Péter STAUBER**, Head of Department, Ministry of Interior, Hungary.

- ★ **Mr Daniel ESDRAS** of the **IOM** Office in Greece provided a perspective on return and reintegration and set out the evolution of IOM's Assisted Voluntary Return and Reintegration (AVRR) programmes, including the role of reintegration assistance in securing the "sustainability" of return. AVRR programmes had evolved from the provision of basic transport assistance to

comprehensive programmes integrating a wide range of services in order to facilitate long-term settlement of third-country national back into their country of origin. Assistance now included: cash grants (pre-departure and post-arrival); in-kind assistance to start a small business; provision of education; vocational training; on-the-job training etc. In conclusion, successful reintegration was found to be most effective when based on five principles: sustainability, measurability, balance, complementarity and innovation, and these elements were built into IOM's AVVR programmes.

- ★ **Mr Olivier BERGEAU (DG HOME)** presented the preliminary results of the EMN Study on Entry Bans and Readmission Agreements. The Study focuses on the practical implementation of entry bans and readmission agreements including analysis of their effectiveness, and the presentation highlighted how entry bans and readmission agreements could work to provide "incentives" for return. Preliminary findings from the Study indicated that whilst the majority of Member States impose entry bans, these can subsequently be withdrawn and/or suspended where an individual can prove that he/she has voluntarily returned to the country of origin. Entry bans are not only used as coercive measures, but also as "incentives" to encourage voluntary return. The Study also found that both EU and national bilateral Readmission Agreements are used to encourage the implementation of voluntary as well as forced return. Scope for further improvement of the practical implementation was identified, for example, by reducing practical obstacles. For entry bans these included enforcing/monitoring compliance of TCNs with entry bans and the cooperation between Member States whilst implementing entry bans; for Readmission Agreements, obstacles primarily appear to relate to identification issues, obtaining the necessary documentation, failures to respect deadlines and protracted procedures. In many cases, such obstacles were identified in relation to individual cases rather than more generally applied.
- ★ A further perspective on reintegration was provided by **Ms. Anne DUSSART** of NGO **Caritas Belgium** who highlighted the added-value for the involvement of civil society in the implementation of AVRR programmes both at pre- and post-departure stages. In implementing AVRR programmes (with IOM), Caritas Belgium primarily focuses on the provision of pre-departure counselling and in this respect emphasised the importance of the position of NGOs in building trust with returnees and providing independent advice in a humane way. Following return, Caritas Belgium cooperates with local partners in the country of origin for the provision of reintegration assistance to returnees. The importance of cooperation with local partners for securing sustainable return was also underlined.
- ★ **Ms. Lonneke KAPOEN**, from the Netherlands Ministry of Security & Justice in her capacity as co-chair of the **EMN Return Expert Group (REG)** provided an overview of the aims and activities of the REG, established as an EMN sub-group in February 2014. Its aim is to support the practical implementation of EU return policy through practical cooperation and exchange of information on return and reintegration. Activities for 2014 will include the development of a Directory to provide an EU-wide overview of Member States' return and reintegration practices; an assessment of the effectiveness of Member States' reintegration programmes, and the stimulation of practical cooperation, identifying good practices and economies of scale. Information sharing has included a focus on the provision of financial allowances (in-cash and in-kind) for returnees in the different Member States, which has highlighted a wide range in the packages available, at the points of departure and post-arrival. These differences raise a number of questions and challenges, in particular by creating pull factors and possible AVRR 'shopping' amongst TCNs returning to third-countries. The REG will continue to explore innovative ways for ensuring effective, sustainable and cost effective return, whilst constraining pull factors.

Discussion focused on reducing such pull factors created by the differences in Member States' financial allowances for returnees. However, it was also stressed that Member



States remain responsible for determining the levels of allowances available and thus a better understanding of what other Member States include and the total values could help to reduce differences over time. A key issue highlighted was the importance of monitoring third-country nationals once returned to a third country and the role of local communities and authorities in countries of origin in facilitating this approach

Panel IV. Alternatives to detention: balancing risks and fundamental rights

Panel IV focused on alternatives to detention in the context of balancing security risks and fundamental rights of TCNs. The Panel aimed to explore the challenges, costs and benefits laid down in different national frameworks when applying detention and alternatives to detention. It was chaired by **Ms Diane SCHMITT**, Head of Unit, DG Home Affairs European Commission.

- ★ **Mr Magnus OVILIUS** managing the EMN, **DG HOME** presented the preliminary findings of the EMN study "Detention and alternatives to detention in the context of immigration policy". Common grounds for detention in Member States include risk of absconding; risk of avoiding or hampering the return process and threats to national security and public order. In the majority of Member States, vulnerability assessments taking into account factors such as physical and mental health is carried out prior to detention. Almost all of the examined Member States provide for one or a combination of alternatives to detention, such as reporting obligations, obligation to surrender a passport or a travel document, requirements to reside at a particular address, release on bail, etc. The Synthesis Report of the Study will include an assessment of the impact of detention and alternatives to detention on the effectiveness of return and international protection procedures, in respect to risk of absconding, fundamental rights and costs of detention and alternatives to detention.
- ★ A fundamental rights perspective was provided by **Ann-Charlotte NYGÅRD** from the EU Agency for Fundamental Rights (FRA), which outlined the applicable EU legal safeguards on detention. The findings of two FRA studies were presented: (i) a study on the available alternatives to detention in Member States (2012) and (ii) a study on criminalisation of irregular stay of migrants (2013), and the presenter highlighted the need for better examination of the relationship between voluntary return practices and alternatives to detention. Attention for example, should be directed towards the mitigation of the risk of absconding, or the concern that a migrant might jeopardise his or her removal, by taking up alternatives to detention.
- ★ **Mr Stefan KESSLER** from the Jesuit Refugee Service reflected on the issue of providing alternatives to detention from an NGO perspective. The presentation underlined that a number of provisions in the EU *acquis* obliged Member States to prioritise alternatives to detention and proposed some good practice measures, including a model for the decision to grant alternatives to detention which included an individual, objective screening and assessment process, the presumption in favour of person's liberty, ensuring security and dignity and an outcome that meets the particular needs of the person. Case resolution in a community-based, non-custodial setting was concluded as the preferred approach, except in cases when a person poses a specific threat to public order and security.

Good practice case studies on alternatives to detention based on National Reports from the EMN study were provided by EMN NCPs for Belgium (**Ms Ina VANDENBERGHE**) and Finland (**Ms Riikka ASA**).

- ★ The **Belgian case** study focused on the provision of alternatives to detention for irregularly-staying families with minor children. Whilst the detention of such families is not prohibited by Belgian law, in practice, it does not take place, and the families are accommodated at the border in non-custodial family accommodation. A case manager is assigned to each family, to assist with measures to determine the migration status. The project was identified as an example of good practice, as it is humane and adapted to the needs of families.
- ★ The perspective of **Finland** provided an example of how the fulfilment of fundamental rights is imbedded in the national legislative framework on detention and alternatives to detention. In the Finnish context, alternatives to detention are considered first with detention applied only as a last resort. The principles of proportionality and of least harm are observed in all cases and detention is used only if other measures and not considered effective. Monitoring of detention and alternatives to detention is addressed through a number of bodies including district courts, the Ombudsman for minorities, the Parliamentary Ombudsman and independent Human Rights organisations. A message to policy-makers from the Finnish experience is that transparency of the detention process is essential in the fulfilment of human rights obligations.

Discussions focused on the negative perception that alternatives to detention may cause in public opinion in the perceived release of irregular migrants into the community. From the Belgian perspective, public resistance at local level had been experienced with regard to reception centres, but not to the family units described. From a fundamental rights perspective, discussants stressed that detention centres as closed centres with very low risk of absconding had the primary objective to facilitate return. Detention was not a custodial penalty for irregular entry or stay but rather a means to facilitate the resolution of irregular status through return. The panel concluded that more research and statistical evidence was required to facilitate policy and sharing of good practices, to which the forthcoming EMN study would contribute.



Conclusions

The Conference Conclusions and next steps were presented by **Dr Angelos SYRIGOS**, Secretary General of Population and Social Cohesion, Ministry of Interior, Hellenic Republic.

Audiences and follow up

Some 180 participants attended the Conference, including representatives from the European Commission, 28 EMN National Contact Points, international and regional organisations (e.g. the Fundamental Rights Agency, IOM, Migration Policy Institute), National and International Academics and researchers, and representatives from Governmental Departments in third countries. The EMN National Network for Greece was also significantly represented.

More information and all presentations as well as photographs from the event may be found on the website of the EMN NCP for Greece.

Annex 2: Conference programme

June 12, 2014	
09.00 – 09.45	Registration and welcoming refreshments
09.45 - 10.45	<p>Welcoming of participants, setting the scene and introductory remarks</p> <p><i>Trends and challenges in irregular migration management, especially in southern Europe, latest perspectives and developments in policies and measure to ensure effective return policies, including cooperation on return practices, readmission, reintegration measures, role of re-entry bans, detention an and alternatives, and how these work together in practice.</i></p> <p>Chairperson: <i>Dr. Angelos SYRIGOS, Secretary General of Population and Social Cohesion, Ministry of Interior, Hellenic Republic</i></p> <p>Key Note Presenters:</p> <ul style="list-style-type: none"> ★ Opening Speech / Presentation <i>Dr Angelos SYRIGOS, Secretary General of Population and Social Cohesion, Ministry of Interior, Hellenic Republic</i> ★ Presentation <i>Mr Patroclos GEORGIADIS Secretary General of the Ministry of Public Order and Civil Protection,</i> ★ EU Return Policy. <i>Matthias RUETE, Director General, DG Home Affairs, EU Commission.</i> ★ Presentation <i>Ambassador Laura THOMPSON, Deputy Director General of the International Organization for Migration (IOM)</i>
10.45 – 11.15	Coffee break

<p>11.15 - 13.00</p>	<p>Panel I. EU cooperation for effective return: challenges and practices in cooperation measures</p> <p>Chairperson: <i>Menelaos KOSTARIS</i>, Director of Division of Illegal Immigration Enforcement / Police Headquarters, Ministry of Public Order and Civil Protection, <i>Hellenic Republic</i></p> <p>Main questions: How do Member States cooperate to ensure effective returns? What has worked best in practice? What have been the main benefits to cooperation? How is voluntary return encouraged and supported? How / have entry-bans contributed to effective returns? What are the lessons for future policy making?</p> <p>Discussants</p> <ul style="list-style-type: none"> ★ Cooperation amongst Member States: challenges and lessons learned <i>Klaus ROESLER, Director of Operations Division, Frontex</i> ★ A credible common European asylum system: cooperation on return of failed asylum seekers, challenges and lessons learned <i>Claus FOLDEN, Head of Centre for Operational Support, EASO</i> ★ Entry-bans in practice and their contribution to effective return <i>EMN National Contact Points:</i> <i>Egle GUSCIUTE: EMN NCP Ireland;</i> <i>Anzelika ALIKA: EMN NCP Latvia;</i> <i>Linda GOLDSCHMEDING: EMN NCP The Netherlands</i> <p>Questions / discussions</p>
<p>13.00 – 14.30</p>	<p>Lunch</p>
<p>14.30-15.30</p>	<p>Panel II. EU cooperation for effective return: the external dimension – readmission and cooperation with countries of transit and origin</p> <p>Chairperson: <i>Elizabeth Collett</i> Director of MPI-Europe and Senior Advisor to MPI's Transatlantic Council on Migration</p> <p>Main questions: Which instruments do the EU's external relations offer to ensure effective returns and the cooperation of third countries? What have been the main challenges with regard to the negotiation and implementation of EU readmission agreements? What has been the impact of initiatives developed in recent years within the framework of the EU Global Approach to Migration and Mobility to support the conclusion and implementation of EU readmission agreements as well as the need for cooperation from third countries more broadly on return, readmission and reintegration? How to strengthen bilateral or regional dialogues with countries of transit and origin to enhance their authorities' capacity to manage migration flows and for addressing the challenges linked to return and readmission?</p> <p>Discussants</p> <ul style="list-style-type: none"> ★ Cooperation with countries of transit and origin: Perspectives on challenges, impacts and lessons learned <i>Dr. George KARIPSIADIS, Legal Counsellor, Legal Service, Ministry of Foreign Affairs, Hellenic Republic</i> ★ Developments in EU readmission policy Perspectives on challenges, impacts and lessons learned <i>Pawel BUSIAKIEWICZ, DG Home Affairs, European Commission</i>

15.30 – 16.00	Coffee break
16.00 – 17.00	<p>Panel II. EU cooperation for effective return: the external dimension – readmission and cooperation with countries of transit and origin, continued</p> <p>★ Case study: EU Readmission Agreements with Turkey and Pakistan Perspectives on challenges, impacts and lessons learned</p> <p><i>Stavros TSIEPAS, Minister Plenipotentiary, Director, C4 Directorate, Justice, Home Affairs – Schengen, Ministry of Foreign Affairs, Hellenic Republic</i></p> <p>★ Case Study: EU Readmission agreements with third countries</p> <p><i>Ophelia Elliott, Home Office, Head, Assisted Voluntary Returns, Returns Directorate, Immigration Enforcement, Home Office, United Kingdom</i></p> <p>Questions / discussions</p>
June 13, 2014	
09.00 – 10:30	<p>Panel III. Incentives for return and reintegration</p> <p>Chairperson: <i>Dr. Péter Stauber, Head of Department, Ministry of Interior, Hungary.</i></p> <p>Main questions: How are reintegration measures determined? How do pre-departure reintegration measures work alongside reintegration measures in countries of origin, and how do these improve effectiveness? What levels of support are available and how are these decided? How sustainable are reintegration measure in reducing irregular migration?</p> <p>Discussants</p> <p>★ Overview and perspectives on reintegration: good practices and lessons learned</p> <p><i>Daniel ESDRAS, Head of Office, Office in Greece, International Organization for Migration</i></p> <p>★ Findings from the EMN study "Good practices in the return and reintegration of irregular migrants: Member States' entry bans policy and use of readmission agreements between Member States and third countries".</p> <p><i>Olivier BERGEAU, DG Home Affairs, European Commission</i></p> <p>★ Overview and perspectives on reintegration:</p> <p><i>Anne DUSSART, Director, Caritas & ERSO Network</i></p> <p>★ Over view and perspectives on reintegration:</p> <p><i>Lonneke KAPOEN, Co-Chair, EMN Return Expert Group,</i></p> <p>Questions / discussions</p>
10.30–11.00	Coffee break

<p>11:00-12.30</p>	<p>Panel IV. Alternatives to detention: balancing risks and fundamental rights</p> <p>Chairperson: <i>Diane SCHMITT, Head of Unit, DG Home Affairs, European Commission</i></p> <p>Main questions:</p> <p>Why and to what extent is detention used as opposed to alternatives to detention? What are the costs / benefits of different models? How are risks assessed against reducing the negative impact on the fundamental rights of migrants ("win-win scenario") made by applying alternatives to detention?</p> <p>Discussants:</p> <ul style="list-style-type: none"> ★ Findings from the EMN study "Detention and Alternatives to Detention" <i>Magnus OVILIUS, DG Home Affairs, European Commission</i> ★ Fundamental Rights Agency perspective, respecting rights and meeting the needs of vulnerable groups <i>Ann-Charlotte NYGARD, Programme Manager, European Fundamental Rights Agency</i> ★ Alternatives to detention, an NGO perspective <i>Stefan KESSLAR, Senior Policy & Advocacy Officer, Jesuit Refugee Service</i> ★ Good practice case study <i>Ina VANDENBERGHE, EMN NCP, Belgium</i> ★ Good practice case study <i>Riikka ASA, EMN NCP, Finland</i> <p>Questions / discussions</p>
<p>12.30-12.45</p>	<p>Closing remarks:</p> <p><i>Dr. Angelos SYRIGOS, Secretary General of Population and Social Cohesion, Ministry of Interior, Hellenic Republic</i></p>
<p>12.45-14.00</p>	<p>Lunch and departures</p>